

No.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

2007 JUL 18 A 11:52

SAN JOSE DIVISION

E-FILE

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA., S.J.

THE UNITED STATES OF AMERICA

vs.

MICHAEL WAYNE GAITHER

INDICTMENT

COUNT ONE:

**Title 18, U.S.C. § 922(G)(1) - Possession of Firearm and
Ammunition by Convicted Felon**

A true bill.



Foreperson

Filed in open court this 17 day of July
A.D. 2007

United States Magistrate Judge

Bail. \$ No bail arrest warrant

SCOTT N. SCHOOLS (SCBN 9990)
United States Attorney

FILED

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RICHARD W. WIEKING
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U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

E-FILED

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	CR	07	00457	RMW
Plaintiff,)	No.		HRL
v.)			
MICHAEL WAYNE GAITHER,)			
Defendant.)			

VIOLATIONS: Title 18, United States
Code, Section 922(g)(1) – Possession of
Firearm and Ammunition by Convicted
Felon

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

(18 U.S.C. § 922(g)(1) - Possession of Firearm and Ammunition by Convicted Felon)

On or about October 27, 2007^{6 HC BW}, in the Northern District of California, the defendant

MICHAEL WAYNE GAITHER,

having previously been convicted of a felony crime punishable by a term of imprisonment

exceeding one year, did knowingly possess a firearm, described as a Mosin Nagant, Model M44,

7.62 x 54mm^{R HC BW} caliber rifle, serial number M44018448, and 32 rounds of 7.62 x 54mm^{HC BW R HC BW}

caliber ammunition, in and affecting commerce, in violation of Title 18, United States Code,
Section 922 (g)(1).

INDICTMENT
U.S. v. GAITHER

FORFEITURE ALLEGATIONS: (18 U.S.C. § 924(d) - Criminal Forfeiture)

The allegations contained in Count One of this Information are hereby realleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 924(d).

Upon conviction of the offense alleged in Count One above, the defendant

MICHAEL WAYNE GAITHER

shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 924(d), all property involved in or used in the violation described above, including but not limited to: the Mosin Nagant, Model M44, 7.62 x 54mm caliber rifle, serial number M44018448, and 32 rounds of 7.62 x 54mm caliber ammunition, seized from the defendant's residence on or about October 27, 2006.

DATED:

18-Jul-2007

A TRUE BILL.

FOREPERSON

SCOTT N. SCHOOLS
United States Attorney

MATTHEW A. PARRELLA
Chief, San Jose Division

(Approved as to form:

AUSA HANLEY CHEW

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURTBY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDINGName of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA**OFFENSE CHARGED**

18 U.S.C. 922(g) (Felon in Possession of Firearm and Ammunition)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony**PENALTY:**10 year term of imprisonment
\$250,000 fine
3 year period of supervised release
\$100 mandatory special assessment**PROCEEDING**Name of Complainant Agency, or Person (& Title, if any)
FBI Special Agent John O'Brien☐ person is awaiting trial in another Federal or State Court, give name of court☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:☐ U.S. Att'y ☐ Defense☐ this prosecution relates to a pending case involving this same defendant☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded underSHOW
DOCKET NO.MAGISTRATE
CASE NO.Name and Office of Person
Furnishing Information on
THIS FORM**SCOTT N. SCHOOLS**☒ U.S. Att'y ☐ Other U.S. AgencyName of Asst. U.S. Att'y
(if assigned)

Hanley Chew

DEFENDANT - U.S.

MICHAEL WAYNE GAITHER

DISTRICT COURT NUMBER

2007 JUL 18 A 11: 52
RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S. J.

DEFENDANT

IS NOT IN CUSTODY

- Has not been arrested, pending outcome this proceeding.
- 1) ☐ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges
- } ☐ Fed'l ☒ State

If answer to (6) is "Yes", show name of institution

Los Angeles Men's County Jail

Has detainer been filed? ☐ Yes ☒ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT Bail Amount: No Bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments: